

Proposed 2005 Local Rule Changes

The following table is a compilation of the Local Rule changes that were presented to the Board of Judges at their September 10, 2004 meeting. The status of each proposed change is indicated in the column on the far right. The full text version of the approved changes are set forth on the pages that follow the table. Pending approval by the Second Circuit Council, the approved modifications will become effective January 1, 2005.

Local Rule Number	Modification	Status
7.1(a)(4)	Modified to conform to the language of Federal Rule of Civil Procedure 15(d).	Approved
7.1(b)(1)	Local Rule 7.1(b)(1) is amended to reflect that reply papers may not exceed ten (10) pages in length. This modification will eviscerate the need for General Order 28.	Approved
7.1(b)(3)	Current Local Rule 7.1(b)(3) requires a party who does not intend to pursue a motion to promptly notify the Court, "but in any event no less than SEVEN CALENDAR DAYS prior to the scheduled return date." It is proposed that the "SEVEN CALENDAR DAYS" be changed to "FOURTEEN CALENDAR DAYS" to make it consistent with the time requirements of 7.1(b)(1) and (b)(2) concerning the filing opposition papers.	Approved
7.1.(b)(2)	Modified the last sentence to clarify that non-dispositive motions may not be adjourned without prior court approval.	Approved
7.1(j)	Modified to allow attorneys the option to adjourn a motion once, provided the new return date is no more than thirty-one days from the original motion return date.	Approved
8.1	Modified to include a new provision of the E-Government Act wherein parties may file a reference list containing their personal identifiers instead of filing un-redacted documents under seal.	Approved
9.2	Civil RICO Statement: This requirement presents an arguable conflict in that it requires the parties to present more information than would normally be required pursuant to Fed. R. Civ. P 8, 9, 12(e) and 56. No changes recommended at this time.	Approved
54.1	Amendment to Local Rule 54.1 requiring receipts for expenses attempting to be recovered as a taxation of costs. This modification will eviscerate the need for General Order 30.	Approved

72.1(b)	A proposal has been submitted to enact a rule whereby when an appeal is made from a Magistrate Judge's order that compels production of discovery (documents, appearance for deposition, etc.), the Magistrate Judge's order is automatically stayed pending resolution of the appeal. No proposed language has yet been drafted. Should this proposal be adopted, language will be adopted which will reflect this change.	Denied
Rule 83.1(a)(5)	Local Rule 83.1(a)(5) is amended to reflect the increase in the attorney admission fee from \$50.00 to \$150.00. Given this increase to the national admission fee, the Northern District has agreed to waive the additional \$30.00 Northern District Fee previously imposed on new attorney admissions. This wavier does not apply to the \$30.00 Northern District fee imposed on Pro Hac Vice Admissions pursuant to Local Rule 83.1(d). This modification will eviscerate the need for General Order 29.	Approved
	Local Rules of Criminal Procedure	
Local Rule Number	Proposed Change	Status
Criminal Rule 1.3	Modified to include a new provision of the E-Government Act wherein parties may file a reference list containing their personal identifiers instead of filing un-redacted documents under seal.	Approved
11.1 Pleas	Updated to reflect the statutory changes to Federal Rule of Criminal Procedure 11.	Approved

Full Text Versions of the Proposed Local Rules of Civil Procedure

Local Rule 7.1(a)(4): (Modifications are reflected in Red)

Where leave to supplement a pleading is sought under Fed. R. Civ. P. 15(d), the proposed supplemental pleading must be limited to **transactions or occurrences or events which have occurred since the date of the pleading sought to be supplemented**. The paragraphs in the proposed pleading must be numbered consecutively to the paragraphs contained in the pleading that is to be supplemented.

Local Rule 7.1(b)(1) (Modifications are reflected in Red)

"No party shall file or serve a memorandum of law in reply to a motion that exceeds ten (10) pages in length, unless leave of the judge hearing the motion is obtained prior to filing." Reply papers must be filed with the Court and served upon the other parties not less than **ELEVEN DAYS** prior to the return date of the motion.

Local Rule 7.1(b)(3) (Modifications are reflected in Red)

Any party who does not intend to oppose a motion, or a movant who does not intend to pursue a motion, shall promptly notify the Court and the other parties of such intention. Notice should be provided at the earliest practicable date, but in any event no less than **FOURTEEN CALENDAR DAYS** prior to the scheduled return date of the motion, unless for good cause shown. **Failure to comply with this Rule may result in the Court imposing sanctions.**

Local Rule 7.1(b)(2) (Modifications are reflected in Red)

Reply papers **and adjournments** are not permitted without the Court's prior permission.

Local Rule 7.1(j) Adjournments of Dispositive Motions (entire section has been rewritten)

After the moving party files and serves its motion papers requesting dispositive relief, but before the time that opposing papers must be filed and served, the parties may agree to an adjournment of the return date for the motion. However, any such adjournment may not be for more than **THIRTY-ONE DAYS** from the return date that the moving party selected. In addition, the parties may agree to new dates for the filing and service of opposition and reply papers. However, all papers must be filed with the Court and served upon the other parties not less than **ELEVEN DAYS** prior to the newly selected return date of the motion. If the parties agree to such an adjournment, they must file a letter with the Court stating the following: (1) that they have agreed to an adjournment of the return date for the motion, (2) the new return date, (3) the date on which opposition papers must be filed and served, and (4) the date on which reply papers must be filed and served. The parties may not agree to any further adjournment.

If one of the parties seeks an adjournment of not more than **THIRTY-ONE DAYS** from the return date that the moving party selected, but the other parties will not agree to such an adjournment, the party seeking the adjournment must file a letter request with the Court, and serve the same upon the other parties, stating the following: (1) that the parties cannot agree to an adjournment, (2) the reason that the party is seeking the adjournment, and (3) the suggested return date for the motion. Within three days of receiving this letter request, the parties who have not agreed to an adjournment may file a letter with the Court, and serve the same upon the other parties, setting forth the reasons that they do not agree to the requested adjournment. The Court will then take the request under advisement and, as soon as practicable, will enter an order granting or denying the request and, if granting the request, setting forth new dates for the filing and serving of opposition and reply papers.

If any party seeks an adjournment of the return date that is more than **THIRTY-ONE DAYS** from the return date that the moving party selected, that party must file a letter request with the Court stating the following: (1) why a longer adjournment is needed and (2) a suggested return date for the motion. The Court will grant such an adjournment only upon a showing of exceptional circumstances. In the alternative or if the Court denies the request for an adjournment, the moving party may **withdraw its motion without prejudice** to refile at a later date. The moving party must refile its motion within the time frame set in the Uniform Pretrial Scheduling Order unless either the assigned District Judge or the assigned Magistrate Judge has granted an extension of the motion-filing deadline.

Local Rule 8.1 Personal Privacy Protection. (Modifications are reflected in **Red**)

In compliance with the E-Government Act of 2002, a party wishing to file a document containing the personal data identifiers listed above may

a. file an unredacted version of the document under seal, or

b. file a reference list under seal. The reference list shall contain the complete personal data identifier(s) and the redacted identifier(s) used in its(their) place in the filing. All references in the case to the redacted identifiers included in the reference list will be construed to refer to the corresponding complete personal data identifier. The reference list must be filed under seal and may be amended as of right.

Local Rule 54.1**Taxation of Costs**

(Modifications are reflected in Red)

The party entitled to recover costs shall file, within thirty (30) days after entry of judgment, a verified bill of costs on the forms that the Clerk provides. The party seeking costs shall accompany its request with receipts indicating that the party actually incurred the costs that it seeks. The verified bill of costs shall include the date on which the party shall appear before the Clerk for taxation of the costs and proof of service of a copy on the party liable for the costs. Post-trial motions shall not serve to extend the time within which a party may file a verified bill of costs as provided in this Rule, except on an order extending the time. Forms for the preparation of a bill of costs are available from the Clerk's office or at the Court's webpage at "www.nynd.uscourts.gov."

Local Rule 83.1(a)(5)**Admission to the Bar**

(Modifications are reflected in Red)

5. **The Required Fee.** As prescribed by and pursuant to the Judicial Conference of the United States and the Rules of this Court, the fee for admission to the bar is **\$150.00**.

Full Text Versions of the Proposed Local Rules of Criminal Procedure

1.3 Personal Privacy Protection.

(Modifications are reflected in Red)

Effective November 1, 2004, the public will be able to view via the Internet all non-sealed documents filed in criminal cases. Parties shall refrain from including, or shall redact where inclusion is necessary, the following personal identifiers from all pleadings filed with the Court, including exhibits thereto, whether filed electronically or in paper form, unless the Court orders otherwise.

1. **Social security numbers.** If an individual's social security number must be included in a document, use only the last four digits of that number.
2. **Names of minor children.** If the involvement of a minor child must be mentioned, use only the initials of that child.
3. **Dates of birth.** If an individual's date of birth must be included in a document, use only the year.
4. **Financial account numbers.** If financial account numbers are relevant, use only the last four digits of those numbers.
5. **Home Addresses.** If a home address must be used, use only the City and State.

In addition, caution shall be exercised when filing documents that contain the following:

- 1) personal identifying number, such as a driver's license number;
- 2) medical records, treatment and diagnosis;
- 3) employment history;
- 4) individual financial information; and
- 5) proprietary or trade secret information.

In compliance with the E-Government Act of 2002, a party wishing to file a document containing the personal data identifiers listed above may

a. file an unredacted version of the document under seal, or

b. file a reference list under seal. The reference list shall contain the complete personal data identifier(s) and the redacted identifier(s) used in its(their) place in the filing. All references in the case to the redacted identifiers included in the reference list will be construed to refer to the corresponding complete personal data identifier. The reference list must be filed under seal and may be amended as of right.

Counsel is strongly urged to discuss this issue with all their clients so that an informed decision about the inclusion of certain information may be made. The responsibility for redacting these personal identifiers **rests solely with counsel and the parties.** The Clerk will not review each pleading for compliance with this Rule. Counsel and the parties are cautioned that failure to redact these personal identifiers may subject them to the Court's full disciplinary power.

Exception: Transcripts of the administrative record in social security proceedings and state court records relating to a habeas corpus petitions are exempt from this requirement.

Local Rule 11.1 Pleas

(Modifications are reflected in Red)

_____(a) In all cases where a presentence report is required, the Court will defer its decision to accept or reject any nonbinding recommendation pursuant to Rule 11(c)(1)(B) and its decision to accept or reject any plea agreement pursuant to Rules 11(c)(1)(A) and (c)(1)(C) until it has had an opportunity to consider the presentence report unless the Court states otherwise.